

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

JOHN A. KING,

Plaintiff,

v.

CIVIL ACTION NO. 2:04-cv-01046

DAILY GAZETTE COMPANY, et al.,

Defendants.

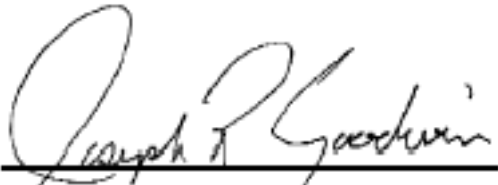
MEMORANDUM OPINION AND ORDER

This action was referred to the Honorable Mary E. Stanley, United States Magistrate Judge, for submission to this court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). The Magistrate Judge has submitted findings of fact and has recommended that the court (1) **DISMISS** this action with prejudice for Plaintiff's failures to appear for his deposition and to prosecute and (2) **DENY** as moot the Defendants' motions to dismiss [Docket 7 and 10]. Neither party has filed objections to the Magistrate Judge's findings and recommendations.

The failure to object to a magistrate judge's report may be deemed a waiver on appeal of the substance of the report and the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation. *See Camby v. Davis*, 718 F.2d 198, 200 (4th Cir. 1983); *Campbell v. United States D. Ct. N.D. Cal.*, 501 F.2d 196, 206 (9th Cir. 1974). The court has reviewed the Magistrate Judge's findings of fact and recommendations and finds no clear error on the face of the record. Therefore, the court accepts and incorporates herein the findings and

recommendation of the Magistrate Judge and orders judgment consistent with the findings and recommendations. The court **DISMISSES** this action with prejudice for Plaintiff's failures to appear for his deposition and to prosecute; **DENIES** as moot the Defendants' motions to dismiss [Docket 7 and 10]; **DISMISSES** this action from the docket, and **DIRECTS** the Clerk to send a copy of this Written Opinion and Order to counsel of record and any unrepresented party.

ENTER: May 27, 2005


A handwritten signature in black ink, appearing to read "Joseph R. Goodwin", is written over a horizontal line.
JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE